IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Crl.Rev.Pet.No. 232 of 2000()

CRA.87/1996 of ADDL.SESSIONS COURT, KOTTAYAM
ST.759/1992 of JUDL.MAGISTRATE OF FIRST CLASS, ETTUMANUR

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REVN. PETITIONER: APPELLANT/ACCUSED

T.K.SUKUMARAN, MANAGER
TIPSY HOTEL
ERATTUPETTA

BY ADV. SRI.DINESH R.SHENOY
SRI.GEORGE KUTTY MATHEW

RESPONDENTS: RESPONDENT/COMPLAINANT

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1. P.K.KUTTAPPAN, PAPDINJAREMALAYIL
SREEKANDAMANGALAM BHAGOM,
PADINJATHUMBHAGOM KARA
ATHIRAMPUZHA VILLAGE.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR

BY ADV. SRI.SARVOTHAMANAN
PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRRP1679232/2000

ORDER ON CRL.M.P.NO.1358/2000 IN CRL.R.P.NO.232/2000

DISMISSED

21.11.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

Crl.R.P.No.232 of 2000

Dated this the 21st day of November, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced, as modified by the appellate court, to undergo S.I. for three months and to pay a fine of Rs.5,000/- and in default, to undergo simple imprisonment for one month.

2. The case of the complainant is that the accused issued two cheques each for Rs.10,000/- towards discharge of the liability for having purchased fresh fish from the complainant and that which when presented got dishonoured for want of funds in the account of the accused.

3. The evidence adduced in the matter consisted of the testimony of PW1 and Exts. P1 to P5.

4. I find that PW1 has testified as to the transaction. The documents produced including dishonour memo would show that the cheques were dishonoured for want of funds in the account of the accused. PW1 has testified that lawyer notice demanding

the amount was sent and the same was received by the accused and no reply notice was received. The postal receipt and acknowledgment card were produced. I find that the execution of the cheques stands proved. There is no rebuttal evidence and hence the statutory presumptions stand unrebutted. I find that there are no grounds to disturb the concurrent findings of the court below. The conviction is confirmed.

5. The counsel has pleaded for modification of the sentence. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.15,000/- to the complainant and in default, to undergo simple imprisonment for three months. The revision petitioner is granted two months' time to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate Court, Ettumanoor on 21.1.2008 to receive sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.R.P.No.613/1999

ORDER

19/11/2007